

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:

Hans-Michael EGGENWEILER

Examiner: Cecilia M. Jaisle

Serial No.: 10/518,503

Group Art Unit: 1624

Filed: December 20, 2004

For: THIAZOLE DERIVATIVES AS PHOSPHODIESTERASE IV INHIBITORS

APPEAL BRIEFMail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Further to the Notice of Appeal filed on June 11, 2008, please consider the following.

The Appeal Brief fee of \$ 510.00 is to be charged to Deposit Account No. 13-3402.
The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

(i) REAL PARTY IN INTEREST

This application is assigned to Merck Patent GmbH, by means of an Assignment recorded at Reel: 016619; Frame: 0964.

(ii) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

(iii) STATUS OF CLAIMS

Pending: Claims 1-19, 21, 24-26 and 30.

Rejected: Claims 21, 24-26 and 30.

Allowable: Claims 1-19.

On Appeal: Claims 21, 24-26 and 30.

CERTIFICATION OF FACSIMILE TRANSMISSION
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(iv) STATUS OF AMENDMENTS

Appellants amendment filed subsequent to Final Rejection on April 10, 2008, has *not* been entered. See the Advisory Action of May 29, 2008..

(v) SUMMARY OF CLAIMED SUBJECT MATTER

The claims on appeal are directed to methods for treating a disease, comprising administering to a host in need thereof, an effective amount of a compound according to Claim 1, wherein the disease is: allergic diseases, asthma, chronic bronchitis, atopic dermatitis, psoriasis or other skin diseases, inflammatory diseases, autoimmune diseases, sepsis, memory disorders, atherosclerosis, AIDS or myocardial disease, see the specification at page 37, line 25, page 30, lines 4-5, page 39, lines 7-10 and 29, page 40, line 19 and 25, page 41, line 22, page 37, line 7, page 42, line 8 and line 17, page 43, lines 11, 19-20, see claim 21. The invention is also directed to methods for treating a disease, comprising administering to a host in need thereof, an effective amount of compound according to Claim 1, wherein the disease is: coronary heart disease, reversible or irreversible myocardial ischaemia/reperfusion damage, acute or chronic heart failure or restenosis including in-stent restenosis and stent-in-stent restenosis. See the specification at page 42, line 31 and page 37, lines 14-18, see claim 26. Moreover, the invention is directed to methods for treating a disease, comprising administering to a host in need thereof, an effective amount of a compound according to Claim 1, wherein the disease is: allergic diseases, asthma, chronic bronchitis, atopic dermatitis, psoriasis, rheumatoid arthritis, multiple sclerosis, Crohn's disease, diabetes mellitus, ulcerative colitis, osteoporosis, transplant rejection reactions, cachexia or atherosclerosis. See the specification at page 37, line 25, page 30, lines 4-5, page 39, lines 7-10 and 29, page 40, line 19 and 25, page 41, line 22, page 37, line 7, page 42, line 8 and line 17, page 43, lines 11, 19-20, page 39, line 12, page 40, line 21, page 40, line 32, page 41, line 1, page 41, line 24, see claim 30.

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The only issue for consideration on appeal is the rejection under 35 U.S.C. 112, first paragraph, of claims 21, 24-26 and 30 as being non-enabled.

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(vii) ARGUMENT

Claims 21, 24, 26 and 30 have been misread as being non-enabled. In fact, the
PAGE 3/3 * RCVD AT 8/11/2008 5:57:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/22 * DNIS:2738300 * CSID:7032436410 * DURATION (mm-ss):08-54